Sr. No.	Date	Orders

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\+ RSA 210/2003

PROMILA GUPTA ..... Appellant
Through Mr.Sudhir Nandrajoig, Advocate.

versus

KANWAL KUMAR SAIGAL & ANR ..... Respondents
Through Mr. Alok Mahajan with Pt.Rajesh arya, Advocates.

CORAM:
HON'BLE MR. JUSTICE R.S. SODHI

O R D E R

% **09.01.2006**

CM.APPL.234/2006:

This is an application for restoration. Cause shown in the application appears to be genuine. The application is allowed and disposed of. RSA 210/2003 is restored to original number and file.

RSA 210/2003 & CM.APPL.721/2003:

RSA 210/2003 seeks to challenge the order of the Additional District Judge in Appeal No.529/2000, which appeal was against the judgment and decree dated 8.3.2000 passed by the Civil Judge, Delhi in suit No. 316/92. Learned Trial

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Court vide its order dated 29.3.2003 has dismissed the appeal.

It is contended by counsel for the petitiner that mere suit for declaration in the present facts and circumstances would not lie. Counsel for the respondent, on the other hand, relies upon a judgment of the Supreme Court in Shanti Kumar Panda Vs. Shakuntala Devi, JT 2005(11) SC 122, where the law has been settled and where such a declaration would lie.

Having heard counsel for the parties and having perused the judgment under challenge as also the judgment of the Supreme Court, I am of the view that concurrent findings of fact cannot be disturbed in a regular second appeal.

RSA 210/2003 & CM.APPL.721/2003 are dismissed.

Dasti.

R.S. SODHI, J

JANUARY 09, 2006
bp

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